

Federal Communications Commission

Washington, DC 20554

RE: Comment on Notice of Inquiry, MB Docket No. 04-261; In the  
Matter of Violent Television Programming and Its Impact on Children

Dear Commissioner:

We the students of Northwestern University's Master's in  
Communication Systems, Strategy, and Management Graduate Program  
hereby submit these comments in reference to MB Docket No. 04-261,  
In the Matter of Violent Television Programming and Its Impact on  
Children. Our comments are limited to two primary issues in this  
matter: (1) the adequacy of current technology and ratings systems  
provided to the general viewing public; and (2) the nature of  
today's media distribution that affords consideration for more  
funding towards consumer education, rather than towards additional  
governmental regulation.

In the past, Congress has requested additional research and  
regulations pertaining to the technology advances in today's  
television sets to provide a control to mitigate the viewing of  
indecent, obscene and violent television programming by children.  
These efforts have failed to reach their full potential because of  
the lack of a Congressional committee to formulate a plan on  
education, ease of use, and awareness of the technologies and their  
capabilities.

The Supreme Court has stressed "'above all else, the First  
Amendment means that government has no power to restrict expression  
because of its message, its ideas, its subject matter, or its  
content.'" *Police Department v. Mosley*, 408 U.S. 92, 95 (1972).  
Moral and esthetic judgments are "'for the individual to make, not  
for the Government to decree, even with the mandate or approval of  
the majority.'" *United States v. Playboy Entertainment Group, Inc.*,  
529 U.S. 803, 818 (2000). In *Brandenburg v. Ohio*, 395 U.S. 444  
(1969)(per curiam), the Supreme Court held that the government may  
not "'forbid or proscribe advocacy of the use of force or of law  
violation except where such advocacy is directed to inciting or  
producing imminent lawless action and is likely to incite or

produce such action." The Court further stated that "[a] statute which fails to draw this distinction impermissibly intrudes upon the freedoms guaranteed by the First and Fourteenth Amendments. It sweeps within its condemnation speech which our Constitution has immunized from Government control." Applying *Brandenburg*, it is clear that television entertainment fails to meet this stringent test. Nothing in the data supports the conclusion that watching media violence will incite imminent violence.

While we agree with the constitutionality and enforcement of the First Amendment, we feel that the freedom to express oneself through the media remain free for all, but with a compensating control for concerned parents to mitigate the level of expression that their children receive.

We feel that a stand must be made for technology controls to limit the expression of free speech if the intended user feels that this necessary. Additionally, we believe that today's many forms of media consumption can only be controlled through technical and educational means. More and more of today's television media is finding itself simulcast or webcast over the Internet. The unregulated media of the Internet provides for the penultimate form of freedom of expression. The FCC would have an enormous battle controlling media content for violent broadcasts to children over the Internet versus the regulatory battle that is waged today over narrowband broadcast television communications. Over the course of the next few decades, we will more than likely see more and more content available to our children over non-traditional means. It is this foresight that prompts us to look even more closely at technology and education to provide the control of media content that is streamed to our children. We believe the freedom to express one-self be the inalienable right of all Americans.

Additionally, we acknowledge the technological and educational means of today's society to reach mass audiences and teach our communities to better use the controls provided to them by the regulations and restrictions already afforded by this Commission. It is the lack of the Commission's follow-up to ensure promotion and use of technology, and the education of that technology. For

example, the FCC's own web site documents the regulations for V-Chip use on all new TVs purchased after January 1, 2000. This enactment went before public notice for comments, proposed rulemaking commissions, technical standards ratifications, task force enforcements, enforcement, and finally follow-up surveys from 1997 – 2000. Following those events, no extensive work was done as outlined between 2001 and 2007. The Commission did release new public hearings on the effectiveness of the V-Chip in 2004. The Commission then released Docket 04-261 decrying the failure of the V-Chip. Perhaps if the Commission looked back at the history of its ability to create regulation and its inability to address education and awareness, it would realize that the issue at hand is not the need for additional regulation. Instead, it is a noteworthy situation to acknowledge that the existing regulation was not given proper credence in terms of awareness to reduce violent content exposure to our children. A 2004 Kaiser Family Foundation study indicated that even after years of being available, only 42% of parents who have a V-chip and are aware of it actually use it. However, of the parents that had used the V-chip, 89% found it "somewhat" to "very" useful. Those figures predict that increased knowledge of technological solutions for voluntarily censorship may increase parents' perceptions of control over their children's television viewing habits.

The Internet has only made education easier. Sites like the TV Boss (<http://www.thetvboss.org>) and the Smart Television Alliance (<http://www.smarttelevisionalliance.org>) have provided informational sites for years on how to go about using the various technologies, and ways to find and promote more educational material already found on many TV channels. These grass roots campaigns need to be employed by the Commission to ensure that our children are protected, our technologies that we have enforced are utilized, and our inalienable rights to express oneself freely in any media continue to be a right of all Americans.

Sincerely,

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